CMPMO No.46 of 2007.

14.9.2007. Present: Mr. Sandeep Sharma, Assistant Solicitor General of India, for the petitioner.

None for the respondent.

As per office noting, respondent has been served but is absent despite service.

Civil Suit No. 203 of 2004: Karam Chand vs. Union of India is pending disposal in the Court of Civil Judge (Senior Division), Hamirpur. In this suit, ex-parte proceedings were initiated against the petitioner-defendant on 23rd June, 2005. An application for setting aside the ex-parte proceedings even though was filed by the petitioner-defendant, this was dismissed for default of appearance on 4th August, 2006. Vide the impugned order dated 14th November, 2006, an application thereafter filed by the petitioner-defendant for restoration of the aforesaid setting aside application has also been rejected primarily and mainly on the ground of limitation.

The application for setting aside was dismissed by the learned Court below on 4th August, 2006. The application for restoration of the setting aside application was filed on 14th September, 2006 i.e. a few days beyond the prescribed period of limitation.

After hearing Mr. Sandeep Sharma, learned Assistant Solicitor General of India, I feel satisfied that the delay in filing the restoration application was neither intentional nor wilful. The learned Court below has taken a pedantic view about the same.

The impugned order dated 14th November, 2006 accordingly is set aside. The application seeking restoration of the setting aside application is allowed. The setting aside application accordingly is restored to its original application.

The petition is disposed of.

CMP No.95 of 2007.

In view of the disposal of the main petition, this application is disposed of. Interim order dated 19th April, 2007 shall stand vacated.

14th September, 2007. (V.K. Gupta), C.J.
(tr)